

1 John J. Edmonds (State Bar No. 274200)
2 jedmonds@cepiplaw.com
3 COLLINS EDMONDS POGORZELSKI
4 SCHLATHER & TOWER, PLLC
5 1851 East First Street, Suite 900
6 Santa Ana, California 92705
Telephone: (951) 708-1237
Facsimile: (951) 824-7901

7 Attorney for Plaintiff,
8 DIGITECH IMAGE TECHNOLOGIES, LLC

9
10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12

13 DIGITECH IMAGE 14 TECHNOLOGIES, LLC, 15 Plaintiff, 16 v. 17 ELECTRONICS FOR IMAGING, 18 INC., 19 Defendant.	20 CASE NO. SACV 12-01324-ODW 21 (MRWx) 22 [PROPOSED] ESI ORDER 23 24 Judge: Hon. Otis D. Wright, II
25 DIGITECH IMAGE 26 TECHNOLOGIES, LLC, 27 Plaintiff, 28 v. PANASONIC CORPORATION and PANASONIC CORPORATION OF NORTH AMERICA, Defendant.	29 CASE NO. SACV 12-01667-ODW 30 (MRWx) 31 [PROPOSED] ESI ORDER 32 33 Judge: Hon. Otis D. Wright, II

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. BUY.COM, INC., Defendant.	CASE NO. SACV 12-01668-ODW (MRWx) [PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II
	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. BEST BUY CO., INC.; BEST BUY STORES, LP; BESTBUY.COM LLC, Defendants.	CASE NO. SACV 12-01669-ODW (MRWx) [PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II
	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. CANON INC. and CANON U.S.A., INC., Defendants.	CASE NO. SACV 12-01670-ODW (MRWx) [PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II

1 2 3 4 5 6 7	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. B&H FOTO & ELECTRONICS CORP., Defendant.	CASE NO. SACV 12-01671-ODW (MRWx) [PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II
8 9 10 11 12 13 14	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. SAKAR INTERNATIONAL, INC. d/b/a VIVITAR, Defendant.	CASE NO. 8:12-CV-01673-ODW (MRWx) [PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II
15 16 17 18 19 20 21	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. LEAF IMAGING LTD (d/b/a Mamiyaleaf), and MAMIYA AMERICA CORPORATION, Defendants.	CASE NO. 8:12-CV-01675-ODW (MRW) [PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II
22 23 24 25 26 27 28	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. OLYMPUS CORPORATION AND OLYMPUS IMAGING AMERICA, INC., Defendant.	CASE NO. SACV 12-01676-ODW (MRWx) [PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II
	DIGITECH IMAGE	CASE NO. SACV 12-01677-ODW

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	TECHNOLOGIES, LLC, Plaintiff, v. LEICA CAMERA AG and LEICA CAMERA INC., Defendants.	(MRWx) [PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II
DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. SONY CORPORATION; SONY CORPORATION OF AMERICA; and SONY ELECTRONICS INC., Defendants.	CASE NO. SACV 12-01678-ODW (MRWx) [PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II	
DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. FUJIFILM CORPORATION, Defendant.	CASE NO. SACV 12-01679-ODW (MRWx) [PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II	
DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. GENERAL IMAGING CO., Defendants.	CASE NO. 8:12-cv-01680-ODW (MRWx) [PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II	
DIGITECH IMAGE TECHNOLOGIES, LLC,	CASE NO. SACV 12-01681-ODW (MRWx)	

1 2 3 4 5	Plaintiff, v. SIGMA CORPORATION ET AL., Defendant(s).	[PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II
6 7 8 9 10 11	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. TARGET CORPORATION, Defendant.	CASE NO. SACV 12-01683-ODW (MRWx) [PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II
12 13 14 15 16 17 18	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. NIKON CORPORATION AND NIKON INC., Defendant.	CASE NO. SACV 12-01685-ODW (MRWx) [PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II
19 20 21 22 23 24	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. MICRO ELECTRONICS, INC., Defendant.	CASE NO. SACV 12-01686-ODW (MRWx) [PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II
25 26 27 28	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. OVERSTOCK.COM, INC.,	CASE NO. SACV 12-01687-ODW (MRWx) [PROPOSED] ESI ORDER

1 Defendant. 2	3 Judge: Hon. Otis D. Wright, II 4
5 DIGITECH IMAGE TECHNOLOGIES, LLC, 6 Plaintiff, 7 v. 8 NEWEGG INC. and NEWEGG.COM INC., 9 Defendants. 10	CASE NO. SACV 12-01688-ODW (MRWx) 11 [PROPOSED] ESI ORDER 12
13 NEWEGG INC. 14 Counter-Plaintiff, 15 v. 16 DIGITECH IMAGE TECHNOLOGIES, LLC and ACACIA RESEARCH CORPORATION 17 Counter-Defendants. 18	Judge: Hon. Otis D. Wright, II 19
20 DIGITECH IMAGE TECHNOLOGIES, LLC, 21 Plaintiff, 22 v. 23 PENTAX RICOH IMAGING COMPANY, LTD., PENTAX RICOH IMAGING AMERICAS CORP., RICOH COMPANY, LTD., AND RICOH AMERICAS CORP., 24 Defendants. 25	CASE NO. SACV 12-01689-ODW (MRWx) 26 [PROPOSED] ESI ORDER 27 28
DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, 29	CASE NO. SACV 12-01693-ODW (MRWx) [PROPOSED] ESI ORDER 30

1 2 3 4	v. XEROX CORPORATION, Defendant.	Judge: Hon. Otis D. Wright, II
5 6 7 8 9 10	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. KONICA MINOLTA BUSINESS SOLUTIONS, U.S.A., INC., Defendants.	CASE NO. SACV 12-01694-ODW (MRWx) [PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II
11 12 13 14 15 16	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. CDW LLC, Defendant(s).	CASE NO. SACV 12-01695-ODW (MRWx) [PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II
17 18 19 20 21 22 23	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. VICTOR HASSELBLAD AB and HASSELBLAD USA INC., Defendants.	CASE NO. 8:12-cv-01696-ODW (MRWx) [PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II

<p>1 2 DIGITECH IMAGE 3 TECHNOLOGIES, LLC, 4 Plaintiff, 5 v. 6 CASIO COMPUTER CO LTD, 7 CASIO AMERICA, INC., 8 Defendants.</p>	<p>CASE NO. SACV 12-01697-ODW (MRW) [PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II</p>
<p>9 10 DIGITECH IMAGE 11 TECHNOLOGIES, LLC, 12 Plaintiff, 13 v. 14 ASUS COMPUTER INTERNATIONAL and ASUSTEK COMPUTER INC., 15 Defendants.</p>	<p>CASE NO. SACV 12-02122 ODW (SSx) [PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II</p>
<p>16 DIGITECH IMAGE 17 TECHNOLOGIES, LLC, 18 Plaintiff, 19 v. 20 MOTOROLA MOBILITY LLC, et al., 21 Defendants.</p>	<p>CASE NO. SACV 12-02123-ODW (MRWx) [PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II</p>
<p>22 DIGITECH IMAGE 23 TECHNOLOGIES, LLC, 24 Plaintiff, 25 v. 26 APPLE, INC. 27 Defendants.</p>	<p>CASE NO. SACV 12-02125 ODW (MRWx) [PROPOSED] ESI ORDER Judge: Hon. Otis D. Wright, II</p>

28 Defendants Electronics for Imaging, Inc., Panasonic Corporation, Panasonic

1
2 Corporation of North America, Buy.com, Inc., Best Buy Co., Inc., Best Buy Stores,
3 LP; Bestbuy.com LLC, Canon Inc., Canon U.S.A., Inc., B & H Foto & Electronics
4 Corp., Sakar International, Inc. d/b/a Vivitar, Leaf Imaging LTD (d/b/a
5 Mamiyaleaf), Mamiya America Corporation, Olympus Corporation, Olympus
6 Imaging America, Inc., Leica Camera AG, Leica Camera Inc., Sony Corporation,
7 Sony Corporation of America, Sony Electronics, Inc., Fujifilm Corporation,
8 General Imaging Co., Sigma Corporation et al., Target Corporation, Nikon
9 Corporation, Nikon Inc., Micro Electronics, Inc., Overstock.com, Inc., Pentax
10 Ricoh Imaging Company, Ltd., Pentax Ricoh Imaging Americas Corp., Ricoh
11 Company, Ltd., Ricoh Americas Corp., Newegg Inc., Newegg.com, Inc., Acacia
12 Research Corporation, Xerox Corporation, Konica Minolta Business Solutions,
13 U.S.A., Inc., Victor Hasselblad AB and Hasselblad USA Inc., Casio Computer Co
14 Ltd, Casio America, Inc., ASUS Computer International, ASUSTek Computer Inc.,
15 Motorola Mobility, LLC et al., Apple Inc. and CDW LLC (collectively
16 “Defendants”), and the Third-Party Defendant in the *Newegg* case, Acacia Research
17 Corporation, through their respective counsel of record, hereby move that the Court
18 enter this Order regarding Electronically Stored Information.

19 1. This Order supplements all other discovery rules and orders. It
20 streamlines Electronically Stored Information (“ESI”) production to promote a
21 “just, speedy, and inexpensive determination” of this action, as required by Federal
22 Rule of Civil Procedure 1.

23 2. This Order may be modified for good cause. The parties shall jointly
24 submit any proposed modifications within 30 days after the Federal Rule of Civil
25 Procedure 16 conference. If the parties cannot resolve their disagreements regarding
26 these modifications, the parties shall submit their competing proposals and a
27 summary of their dispute.

28

1

2 3. Costs will be shifted for disproportionate ESI production requests
3 pursuant to Federal Rule of Civil Procedure 26. Likewise, a party's nonresponsive
4 or dilatory discovery tactics will be cost-shifting considerations.

5 4. A party's meaningful compliance with this Order and efforts to
6 promote efficiency and reduce costs will be considered in cost-shifting
7 determinations.

8 5. General ESI production requests under Federal Rules of Civil
9 Procedure 34 and 45 shall not include metadata absent a showing of good cause.
10 However, fields showing the date and time when an email was sent and received, as
11 well as the complete distribution list, shall generally be included in the production.

12 6. General production requests under Federal Rules of Civil Procedure
13 34 and 45 shall not include ESI or email or other forms of electronic
14 correspondence (collectively "ESI"). To obtain ESI parties must propound specific
15 ESI production requests.

16 7. ESI production requests shall only be propounded for specific issues,
17 rather than general discovery of a product or business.

18 8. ESI production requests shall be phased to occur after the parties have
19 exchanged initial disclosures and basic documentation about the patents, the prior
20 art, the accused instrumentalities, and the relevant finances. While this provision
21 does not require the production of such information, the Court encourages prompt
22 and early production of this information to promote efficient and economical
23 streamlining of the case.

24 9. Email production requests shall identify the custodian, search terms,
25 and time frame. In the event non-email ESI is in the possession of specific
26 custodians, non-email ESI production requests shall also identify the custodian,
27 search terms, and time frame. The parties shall cooperate to identify the proper
28 custodians, proper search terms and proper timeframe.

1

2 10. Each requesting party shall limit its email (and, where applicable, non-
3 email ESI) production requests to a total of five custodians per producing party for
4 all such requests. The parties may jointly agree to modify this limit without the
5 Court's leave. The Court shall consider contested requests for up to five additional
6 custodians per producing party, upon showing a distinct need based on the size,
7 complexity, and issues of this specific case. Should a party serve email (and, where
8 applicable, non-email ESI) production requests for additional custodians beyond the
9 limits agreed to by the parties or granted by the Court pursuant to this paragraph,
10 the requesting party shall bear all reasonable costs caused by such additional
11 discovery.

12

13 11. Each requesting party shall limit its email (and, where applicable, non-
14 email ESI) production requests to a total of five search terms per custodian per
15 party. The parties may jointly agree to modify this limit without the Court's leave.
16 The Court shall consider contested requests for up to five additional search terms
17 per custodian, upon showing a distinct need based on the size, complexity, and
18 issues of this specific case. The search terms shall be narrowly tailored to particular
19 issues. Indiscriminate terms, such as the producing company's name or its product
20 name, are inappropriate unless combined with narrowing search criteria that
21 sufficiently reduce the risk of overproduction. A conjunctive combination of
22 multiple words or phrases (*e.g.*, "computer" and "system") narrows the search and
23 shall count as a single search term. A disjunctive combination of multiple words or
24 phrases (*e.g.*, "computer" or "system") broadens the search, and thus each word or
25 phrase shall count as a separate search term unless they are variants of the same
26 word. Use of narrowing search criteria (*e.g.*, "and," "but not," "w/x") is encouraged
27 to limit the production and shall be considered when determining whether to shift
28 costs for disproportionate discovery. Should a party serve email (and, where
applicable, non-email ESI) production requests with search terms beyond the limits

1

2 agreed to by the parties or granted by the Court pursuant to this paragraph, the
3 requesting party shall bear all reasonable costs caused by such additional discovery.

4

5 12. The receiving party shall not use ESI that the producing party asserts is
6 attorney-client privileged or work product protected to challenge the privilege or
protection.

7

8 13. Pursuant to Federal Rule of Evidence 502(d), the inadvertent
9 production of a privileged or work product protected ESI is not a waiver in the
pending case or in any other federal or state proceeding.

10

11 14. The mere production of ESI in a litigation as part of a mass production
shall not itself constitute a waiver for any purpose.

12

13 15. By entering into this Order, the Parties do not consent to any ESI
discovery and do not waive their rights to seek a protective order in lieu of
14 responding to any ESI discovery request, and also to seek reimbursement for the
15 costs of bringing a motion for protective order.

16

17

18

19

20

21

22

23

24

25

26

27

28

1
2
3 Dated: March 18, 2013 Jones Day
4

5 By: /s/
6 FRANK P. COTE

7 Attorneys for Defendant
8 Electronics for Imaging, Inc.
9

10 Dated: March 18, 2013 Orrick, Herrington & Sutcliffe LLP
11
12

13 By: /s/
14 CHRISTOPHER P. BRODERICK

15 Attorneys for Defendants
16 Panasonic Corporation And Panasonic
17 Corporation of North America
18

19 Dated: March 18, 2013 Dorsey & Whitney LLP
20
21

22 By: /s/
23 CASE COLLARD

24 Attorneys for Defendant Buy.com Inc.
25 Robins, Kaplan, Miller & Ciresi L.L.P.
26

27 By: /s/
28 MICHAEL A. GEIBELSON

29 Attorneys for Defendants
30 Best Buy Co., Inc., Best Buy Stores, LP, and
31 Bestbuy.Com LLC
32

33 Dated: March 18, 2013 Orrick, Herrington & Sutcliffe LLP
34
35

36 By: /s/

37 Attorneys for Defendants
38 Canon Inc. and Canon U.S.A., Inc.
39

1 Dated: March 18, 2013 Kaye Scholer LLP
2

3
4 By: /s/
OSCAR RAMALLO

5 Attorneys for Defendant
6 B & H Foto & Electronics Corp.
7

8 Dated: March 18, 2013 Kohan Law Firm
9 Ezra Sutton & Associates, P.A.
10

11 By: /s/
K. TOM KOHAN

12 Attorneys for Defendant and
13 Counter-claimant Sakar International, Inc.
14

15 Dated: March 18, 2013 Greenburg Traurig, LLP
16

17 By: /s/
J. RICK TACHÉ

18 Attorneys for Defendant
19 Mamiya America Corporation
20

21 Dated: March 18, 2013 Greenburg Traurig, LLP
22

23 By: /s/
J. RICK TACHÉ

24 Attorneys for Defendant
Leaf Imaging Ltd.
25

26 Dated: March 18, 2013 Orrick, Herrington & Sutcliffe LLP
27

28 By: /s/
CHRISTOPHER P. BRODERICK

Attorneys for Defendants
Olympus Corporation and Olympus Imaging
America, Inc.

1 Dated: March 18, 2013 Crowell & Moring LLP
2

3
4 By: /s/ DANIEL A. SASSE
DANIEL A. SASSE

5 Attorneys for Defendants
6 Leica Camera AG and Leica Camera Inc.

7 Dated: March 18, 2013 Finnegan, Henderson, Farabow, Garrett &
8 Dunner, LLP

9 By: /s/
10 LIONEL M. LAVENUE

11 Attorneys for Defendants
12 Sony Corporation, Sony Corporation of
America, and Sony Electronics Inc.

13 Dated: March 18, 2013 Orrick, Herrington & Sutcliffe LLP
14

15 By: /s/
CHRISTOPHER P. BRODERICK

16 Attorneys for Defendant
17 Fujifilm Corporation

18 Dated: March 18, 2013 Knobbe, Martens, Olson & Bear, LLP
19

20 By: /s/
JON W. GURKA

21 Attorneys for Defendant
22 General Imaging Company
Orrick, Herrington & Sutcliffe LLP
23

24 By: /s/
CHRISTOPHER P. BRODERICK

25 Attorneys for Defendants
26 Sigma Corporation and Sigma Corporation of
27 America
28

1 Dated: March 18, 2013 Orrick, Herrington & Sutcliffe LLP
2

3
4 By: /s/
CHRISTOPHER P. BRODERICK

5 Attorneys for Defendant
6 Target Corporation

7 Dated: March 18, 2013 Orrick, Herrington & Sutcliffe LLP
8

9 By: /s/
CHRISTOPHER P. BRODERICK

10 Attorneys for Defendants
11 Nikon Corporation and Nikon, Inc.

12 Dated: March 18, 2013 Orrick, Herrington & Sutcliffe LLP
13

14 By: /s/
CHRISTOPHER P. BRODERICK

15 Attorneys for Defendant
16 Micro Electronics, Inc.

17 Dated: March 18, 2013 Orrick, Herrington & Sutcliffe LLP
18

19 By: /s/
CHRISTOPHER P. BRODERICK

20 Attorneys for Defendant
21 Overstock.com, Inc.

22 Dated: March 18, 2013 The Webb Law Firm
23

24 By: /s/
CECILIA R. DICKSON

25 Attorneys for Defendants
26 Newegg Inc. and Newegg.com Inc. and
27 Counter-Plaintiff Newegg Inc.
28

1 Dated: March 18, 2013 DLA Piper LLP (US)
2

3
4 By: /s/
RICHARD DE BODO

5 Attorneys for Defendants
6 Pentax Ricoh Imaging Co., Ltd.; Pentax Ricoh
7 Imaging Americas Corporation; Ricoh
Company, Ltd.; and Ricoh Americas Corp.

8 Dated: March 18, 2013 Ballard Spahr LLP
9

10 By: /s/
ROSINA M. HERNANDEZ

11 Attorneys for Defendant
12 Xerox Corporation

13 Dated: March 18, 2013 Orrick, Herrington & Sutcliffe LLP
14

15 By: /s/
CHRISTOPHER P. BRODERICK

16 Attorneys for Defendant
17 Konica Minolta Business Solutions, U.S.A.,
Inc.

18 Dated: March 18, 2013 Marshall, Gerstein & Borun LLP
19 Gibson, Dunn & Crutcher LLP

20
21 By: /s/ ANTHONY S. GABRIELSON/
ANTHONY S. GABRIELSON

22 Attorneys for Defendant
23 CDW LLC

24 Dated: March 18, 2013 Renner, Otto, Boisselle & Sklar, LLP
25

26 By: /s/
MARK C. JOHNSON

27 Attorneys for Defendants
28 Victor Hasselblad AB and Hasselblad USA
Inc.

1 Dated: March 18, 2013 Sills Cummis & Gross P.C.
2

3
4 By: /s/
SCOTT D. STIMPSON

5 Attorneys for Defendants
6 Casio America, Inc. and Casio Computer Co.,
Ltd.

7 Dated: March 18, 2013 Turner Boyd LLP
8

9 By: /s/
10 JOSHUA M. MASUR

11 Attorneys for Defendants
ASUS Computer International and ASUSTeK
12 Computer Inc.

13 Dated: March 18, 2013 Bostwick & Jassy LLP
14 Kilpatrick Townsend & Stockton LLP

15 By: /s/
16 GARY L. BOSTWICK

17 Attorneys for Defendant
Motorola Mobility LLC

18 Dated: March 18, 2013 Jones Day
19

20 By: /s/
21 FRANK P. COTE

22 Attorneys for Defendant
Apple Inc.

24 SO ORDERED.

25 DATED: _____

26 Hon. Otis D. Wright, II
27 UNITED STATES DISTRICT JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28